

HON MEKA WHAITIRI, MINISTER FOR VETERANS

Amendment to the Veterans' Support Regulations 2014: Statements of Principles and Accepted Late-Onset Conditions

October 2022

This paper seeks authorisation for submission to the Executive Council of the Veterans' Support Amendment Regulations (No 3) 2022 (the Amendment Regulations).

The pack comprises the following documents:

- August 2022 Cabinet Legislation Committee Minute of Decision *Amendment to the Veterans' Support Regulations 2014: Statements of Principles and Accepted Late-Onset Conditions* [LEG-22-MIN-0136]; and
- The associated Cabinet Paper *Amendment to Veterans' Support Regulations 2014: Statements of Principles and Accepted Late-Onset Conditions*.

This pack has been released on the New Zealand Defence Force website, available at:

www.nzdf.mil.nz/nzdf/search-our-libraries/documents/?document-type=Official+information&sort=relevance.

No information has been withheld.



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Amendment to the Veterans' Support Regulations 2014: Statements of Principles and Accepted Late-Onset Conditions

Portfolio **Veterans**

On 25 August 2022, the Cabinet Legislation Committee:

- 1 **noted** that, in accordance with section 23 of the Veterans' Support Act 2014, the Minister for Veterans (the Minister) has approved the revocation and replacement of 18 Statements of Principles and the introduction of eight new Statements of Principles relating to conditions that may be causally connected to a veteran's qualifying service;
- 2 **noted** that the Minister has approved revision of the name of one accepted late-onset condition set out in Schedule 2A of the Veterans' Support Regulations 2014 (the principal Regulations) in order to align it with the Statements of Principles from which it was derived;
- 3 **noted** that in March 2016, the then Cabinet Social Policy Committee authorised the Minister for Veterans to instruct the Parliamentary Counsel Office to amend Schedule 1 of the principal Regulations to effect revisions to the Statements of Principles without further reference to Cabinet [SOC-16-MIN-0018];
- 4 **noted** that the proposed amendment of the principal Regulations gives effect to the decisions referred to in paragraphs 1 and 2 above;
- 5 **authorised** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 3) 2022 [PCO 24877/5.0];
- 6 **noted** that the Veterans' Support Amendment Regulations (No 3) 2022 will come into force on 29 September 2022.

Rebecca Davies
Committee Secretary

Present:
Hon Andrew Little
Hon David Parker
Hon Michael Wood (Chair)
Dr Duncan Webb, MP (Senior Government Whip)

Officials present from:
Office of the Prime Minister
Officials Committee for LEG

AMENDMENT TO VETERANS' SUPPORT REGULATIONS 2014: STATEMENTS OF PRINCIPLES AND ACCEPTED LATE-ONSET CONDITIONS

Proposal

1. This paper seeks agreement to the amendment of Schedule 1 and Schedule 2A of the Veterans' Support Regulations 2014 (the Regulations).
2. Schedule 1 lists the Australian Statements of Principles that apply for the purposes of the Veterans' Support Act 2014 (the Act). Amendment is required to revoke 18 Statements of Principles, replacing them with 18 Statements of Principles, and to introduce eight new Statements of Principles.
3. Schedule 2A lists accepted-late onset conditions that apply for the Act. Changes to one name of a condition on the list is required in order to align with the name listed in Schedule 1.

Background

4. In deciding claims for entitlements under the Veterans' Support Act 2014 (the Act), Veterans' Affairs must assess whether a veteran's medical condition is linked to qualifying service. Statements of Principles are one of the mechanisms under the Act for establishing this causal link. They have been specifically developed for the most commonly claimed conditions that are service-related.
5. The Statements of Principles are determined by the Australian Government Repatriation Medical Authority (RMA) and are regularly reviewed and amended. New Statements of Principles are introduced based on medical-scientific evidence linking the condition to service.
6. A Veterans' Affairs representative (a medical practitioner) attends the RMA meetings as an "attending expert". The representative provides input into the RMA's assessment of the medical-scientific evidence and on the proposed revisions to the Statements of Principles and introduction of any new Statements of Principles.
7. New Zealand adopted the Statements of Principles under Schedule 1 of the Regulations. In accordance with section 23 of the Act, I must decide if the Australian revocations and replacements and the new Statements of Principles should apply in New Zealand based upon advice from Veterans' Affairs and the independent Veterans' Health Advisory Panel.
8. Cabinet previously authorised [CAB-16-MIN-0131] that the Minister for Veterans will issue instructions to the Parliamentary Counsel Office to draft amendments to Schedule 1 of the Regulations to effect revisions to the Statements of Principles, without further reference to the then Cabinet Social Policy Committee, unless a significant issue relating to the Statements of Principles revisions arises.
9. Accepted late-onset conditions are another mechanism under the Act for establishing a link between a veteran's service and their illness or injury. This mechanism is applied only to veterans whose qualifying operational service took place after 1 April 1974 (Scheme Two). Its purpose was to ensure that families of veterans whose death was

the result of a late-onset malignancy or other physical illness, or a mental disorder, receive entitlements under the Act. It was deemed that if accepted late-onset conditions were not defined, the family of a veteran whose death was caused by an event that occurred during qualifying operational service ten or more years prior to the onset of illness may not be covered as causality would be difficult to establish over this time period.

10. The original list of accepted late-onset conditions was based on identifying which conditions were covered by Statements of Principles and then, of those, which had one or more late-onset causative factors.
11. I must approve changes to accepted late-onset conditions as these are specified in Regulations.

Proposed Regulatory Amendment to revise Statements of Principles and amend the name of one accepted late-onset condition

12. In April 2022 and May 2022 Australia repealed and replaced 18 Statements of Principles and introduced eight new Statements of Principles. I have decided, on the basis of advice from Veterans' Affairs and the Veterans' Health Advisory Panel, that the changes to the Statements of Principles, and the newly introduced Statements of Principles, are based upon sound medical-scientific evidence, that they can be linked to a veteran's qualifying service and that they are suitable for use in New Zealand. None of the replacement or new Statements of Principles will make it significantly harder or easier to link a veteran's condition to service or are likely to result in significantly higher numbers of successful or failed claims. The Statements of Principles in question are listed in Annex A.
13. Accepted late-onset conditions are derived from the Statements of Principles. The list of these conditions first came into force in December 2015. The Statements of Principles for *epileptic seizure* have undergone a name change to *seizure*. A consequential amendment is needed in the list of accepted late-onset conditions. Alignment of the name will not make it significantly harder or easier to link a veteran's condition to service or result in significantly higher numbers of successful or failed claims.
14. Any changes to a Statement of Principles, through amendment, revocation (repeal) or new introduction, and to the name of an accepted late-onset conditions will not impact on any entitlement or service that has previously been granted under the Act.

Timing and 28-Day Rule

15. It is intended that the Veterans' Support Amendment Regulations (No 3) 2022 will come into force on 29 September 2022, thus complying with the 28-day rule.

Compliance

16. The proposed amendment to the Regulations to replace Schedules 1 and 2A complies with each of the following:
 - 16.1. the principles of the Treaty of Waitangi;
 - 16.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;

- 16.3. the principles and guidelines set out in the Privacy Act 2020;
 - 16.4. the relevant international standards and obligations; and
 - 16.5. the Legislation Design and Advisory Committee Guidelines (2021) which are maintained by the Legislation Design and Advisory Committee.
17. In accordance with section 23 of the Act, before reaching my decision that the 18 Statements of Principles should be revoked and replaced, and eight newly introduced Statements of Principles should be applied in New Zealand, I received reports from Veterans' Affairs and independent advice from the Veterans' Health Advisory Panel. Both recommended the adoption of the proposed changes.

Regulations Review Committee

- 18. There are no grounds for the Regulations Review Committee to draw this regulation amendment to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

- 19. The draft Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Financial Implications

- 20. The changes to the existing Statements of Principles and the introduction of the new Statements of Principles for *eosinophilic oesophagitis*, *exertional heat illness*, *thoracic outlet syndrome*, and *vaccine-induced thrombotic thrombocytopenia*, are not expected to affect the overall Crown liability relating to veteran entitlements.

Impact Analysis

- 21. The Regulatory Impact Analysis Team at the Treasury has determined that the regulatory proposals in this paper are exempt from the requirement to provide a Regulatory Impact Statement on the basis that they have no, or minor, impacts on businesses, individuals or not-for-profit entities.

Publicity

- 22. Veterans' Affairs will publish the changes on its website.

Proactive Release

- 23. I intend to release this paper in full. In accordance with section 131 of the Legislation Act 2019, I do not intend to release the draft regulations which are subject to legal professional privilege.

Consultation

- 24. The Treasury and the Ministry of Social Development were consulted in the course of developing the policy and the amended Schedules 1 and 2A of the Regulations.

Recommendations

- 25. I recommend that the Cabinet Legislation Committee:
 - 1. **Note** that in accordance with section 23 of the Veterans' Support Act 2014 I have approved the revocation and replacement of 18 Statements of Principles and the

introduction of eight new Statements of Principles relating to conditions that may be causally connected to a veteran's qualifying service.

2. **Note** that I have approved revision of the name of one accepted late-onset condition set out in Schedule 2A of the Veterans' Support Regulations 2014 in order to align it with the Statements of Principles from which it was derived.
3. **Note** that Cabinet authorised [CAB-16-MIN-0131] the Minister for Veterans to instruct the Parliamentary Counsel Office to amend Schedule 1 of the Veterans' Support Regulations 2014 to effect revisions to the Statements of Principles without further reference to the then Cabinet Social Policy Committee.
4. **Note** that the proposed amendment of the Veterans' Support Regulations 2014 gives effect to the decisions referred to in recommendations 1 and 2 above.
5. **Agree** that the Veterans' Support Amendment Regulations (No 3) 2022 will come into force on 29 September 2022, thus complying with the 28-day rule.
6. **Authorise** the submission to the Executive Council of the Veterans' Support Amendment Regulations (No 3) 2022.

Authorised for lodgement

Hon Meka Whaitiri
Minister for Veterans

Date:

Annex:

- A. List of Statements of Principles for Possible Application in New Zealand by amendment of Schedule 1 of the Veterans' Support Regulations 2014

Veterans' Support Amendment Regulations (No 3) 2022

Order in Council

At Wellington this day of 2022

Present:
in Council

These regulations are made under section 265 of the Veterans' Support Act 2014—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Veterans made in accordance with section 23 of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Schedule 1 amended	2
5 Schedule 2A amended	2
Schedule 1	3
Schedule 1 amended	
Schedule 2	5
Schedule 2A amended	

Regulations

1 Title

These regulations are the Veterans' Support Amendment Regulations (No 3) 2022.

2 Commencement

These regulations come into force on 29 September 2022.

3 Principal regulations

These regulations amend the Veterans' Support Regulations 2014.

4 Schedule 1 amended

Amend Schedule 1 as set out in Schedule 1 of these regulations.

5 Schedule 2A amended

Amend Schedule 2A as set out in Schedule 2 of these regulations.

Schedule 1

Schedule 1 amended

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After the item relating to endometriosis, insert:

eosinophilic oesophagus	29/2022	30/2022
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Revoke the item relating to epileptic seizure.

After the item relating to essential thrombocythaemia, insert:

exertional heat illness	31/2022	32/2022
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In the item relating to heart block,—

- (a) replace “1/2014” with “23/2022”; and
- (b) replace “2/2014” with “24/2022”.

In the item relating to hypertension,—

- (a) replace “63/2013” with “21/2022”; and
- (b) replace “64/2013” with “22/2022”.

In the item relating to malignant neoplasm of the larynx,—

- (a) replace “61/2013” with “41/2022”; and
- (b) replace “62/2013” with “42/2022”.

In the item relating to malignant neoplasm of the thyroid gland,—

- (a) replace “39/2014” with “39/2022”; and
- (b) replace “40/2014” with “40/2022”.

In the item relating to morbid obesity,—

- (a) replace “5/2014” with “43/2022”; and
- (b) replace “6/2014” with “44/2022”.

In the item relating to periodontal abscess,—

- (a) replace “49/2013” with “25/2022”; and
- (b) replace “50/2013” with “26/2022”.

In the item relating to periodontitis,—

- (a) replace “47/2013” with “27/2022”; and
- (b) replace “48/2013” with “28/2022”.

After the item relating to seborrhoeic keratosis, insert:

seizure	37/2022	38/2022
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In the item relating to sudden unexplained death,—

- (a) replace “57/2013” with “45/2022”; and
- (b) replace “58/2013” with “46/2022”.

After the item relating to tension-type headache, insert:

thoracic outlet syndrome	47/2022	48/2022
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After the item relating to umbilical hernia, insert:

vaccine-induced thrombotic thrombocytopenia	33/2022	34/2022
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Proactively Released by the Minister for Veterans

Schedule 2

Schedule 2A amended

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Revoke the item relating to epileptic seizure.

After the item relating to scrub typhus, insert:

seizure

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 29 September 2022, amend the Veterans' Support Regulations 2014 (the **principal regulations**).

Regulation 4 and Schedule 1 amend Schedule 1 of the principal regulations, which lists the Australian statements of principles (the **statements**) that apply to specified medical conditions for the purposes of the Veterans' Support Act 2014 (the **Act**). The amendments—

- insert the names of 4 new conditions (eosinophilic oesophagus, exertional heat illness, thoracic outlet syndrome, and vaccine-induced thrombotic thrombocytopenia) and references to statements related to those conditions;
- replace the name of the condition epileptic seizure with seizure in order to reflect the statements;
- update references to the statements.

Regulation 5 and Schedule 2 amend Schedule 2A of the principal regulations, which lists accepted late-onset conditions for the purposes of the definition of accepted late-onset condition in section 7 of the Act. The amendment replaces epileptic seizure to reflect that this condition has been renamed seizure.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

These regulations are administered by the New Zealand Defence Force.